

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Holden of San José Assisted Living Facility

PROJECT FILE NUMBER: CP16-026

PROJECT DESCRIPTION: Conditional Use Permit to allow the construction of a 200-unit, 4-story senior assisted living building on a 3.55 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The project site is located at the northeasterly corner of Almaden Expressway and Branham Lane, at 4606 Almaden Expressway. The Assessor's Parcel Number (APN) is 458-18-080 on the Santa Clara County Assessor's Parcel Map.

COUNCIL DISTRICT: 10

APPLICANT CONTACT INFORMATION: Peter Solar, Alliance Realty Partners LLC, 477 Pacific Avenue, Suite One, San Francisco, California

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.
- II. AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.
- III. AIR QUALITY.** The project will not have a significant impact on air quality, therefore no mitigation is required.

- IV. BIOLOGICAL RESOURCES.** The project could potentially impact special status species, including nesting birds and Western pond turtle.

Mitigation Measure BIO-1: If possible, construction shall be scheduled between September 1 and January 31 to avoid the nesting season for raptors and other migratory birds. If this is not possible, pre-construction surveys for nesting birds shall be conducted by a qualified biologist or ornithologist to identify active nests that may be disturbed during project implementation. Projects that commence construction between February 1 and August 31 shall conduct pre-construction surveys for nesting birds within 14 days of the onset of construction. Pre-construction surveys shall be conducted by a qualified biologist or ornithologist for nesting birds within the onsite trees as well as all trees within 250 feet of the site. If an active nest is found in or close enough to the construction area to be disturbed by these activities, the qualified biologist or ornithologist, shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone around the nest. The project applicant shall submit a report to the City's Environmental Supervising Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

Mitigation Measure BIO-2: A qualified biologist shall conduct pre-construction surveys for western pond turtles and their nests no more than two calendar days prior to the commencement of construction activities. If an adult pond turtle is found in any areas planned for disturbance, prior to or during project-related construction activities, construction cannot commence until the turtle has left the site. The qualified biologist shall monitor the turtle(s) until the individual(s) have left the site, or shall relocate the individual from the site to a suitable location, pursuant to CDFW protocols. If a buried nest of eggs is encountered during project-related construction activities, the CDFW does not recommend moving the eggs because of specific conditions required for development and hatching. If a nest is found within the construction area, construction shall stop and the CDFW shall be notified. Construction can be reinitiated subsequent to CDFW approval.

- V. CULTURAL RESOURCES.** The project may impact Native American and historic era archaeological deposits during excavation and construction activities. This impact will be reduced to a less-than-significant level with the following mitigation.

Mitigation Measure CR-1: Retain a qualified archaeologist to perform a surface survey of the project site after the nursery building has been demolished and all of the asphalt removed, prior to any construction activities. If any indication of prehistoric or historic-era resources or paleosol (buried soil) is identified, the qualified archaeologist shall make recommendations for further evaluation that may include measures to protect potential resources. The findings shall be submitted to the City's Environmental Supervising Planner.

- VI. GEOLOGY AND SOILS.** The project will not have a significant impact due to geology and soils, therefore no mitigation is required.
- VII. GREENHOUSE GAS EMISSIONS.** The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.
- VIII. HAZARDS AND HAZARDOUS MATERIALS.** The project will not have a significant impact due to hazards and hazardous materials, therefore no mitigation is required.

- IX. HYDROLOGY AND WATER QUALITY.** The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.
- X. LAND USE.** The project will not have a significant land use impact, therefore no mitigation is required.
- XI. MINERAL RESOURCES.** The project will not have a significant impact on mineral resources, therefore no mitigation is required.
- XII. NOISE.** Construction-related vibration levels would exceed 0.2 in/sec PPV, per General Plan Policy EC-2.3, at nearby commercial buildings to the north and south, which could impact these structures. Mitigation is identified below to reduce this impact to a less-than-significant level.

Mitigation Measure NSE-1: The project applicant and/or contractor shall adhere to the following measures to reduce vibration impacts from construction activities:

- Submit a list of all heavy construction equipment to be used for the project and the anticipated time duration of using the equipment that is known to produce high vibration levels (vibratory rollers, hoe rams, large bulldozers, etc.) to the City's Department of Planning, Building, and Code Enforcement. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.
- Develop and implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include the following:
 - Identification of the sensitivity of nearby structures to groundborne vibration. Vibration limits shall be applied to all vibration-sensitive structures located within 50 feet of construction activities identified as sources of high vibration levels.
 - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure within 50 feet of construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular interval during construction, and after project completion, and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
 - Development of a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before

and after construction conditions. Construction contingencies shall be identified for when measured vibration levels approach the predetermined vibration limits.

- At a minimum, vibration monitoring shall be conducted during demolition, excavation, and pavement removal.
 - If measured vibration levels approach the predetermined vibration limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
 - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
 - Conduct a post-construction survey on structures where either monitoring has indicated high levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.
- The results of all vibration monitoring shall be summarized and submitted in a report to the City's Supervising Environmental Planner shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.

XIII. POPULATION AND HOUSING. The project will not have a significant population and housing impact, therefore no mitigation is required.

XIV. PUBLIC SERVICES. The project will not have a significant impact on public services, therefore no mitigation is required.

XV. RECREATION. The project will not have a significant impact on recreation, therefore no mitigation is required.

XVI. TRANSPORTATION. The project will not have a significant traffic impact, therefore no mitigation is required.

XVII. UTILITIES AND SERVICE SYSTEMS. The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.


XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **November 9th** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Harry Freitas, Director
Planning, Building and Code Enforcement


Deputy

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